

Legislative Council Panel on Development

**The Administration's Response to the Motion passed under Agenda Item VI
"Proposed Enhancements to the General Ex-gratia Compensation
and Rehousing Arrangements for
Government's Development Clearance Exercises"
at the Meeting on 29 May 2018**

The Legislative Council (LegCo) Panel on Development passed the motion moved by Hon LAM Cheuk-ting at the meeting on 29 May 2018:

"Regarding the ex-gratia compensation and rehousing arrangements for the clearance exercises carried out in respect of new development areas, this Panel requests the Government to:

- 1. resume the land concerned in one go, so as to avoid subjecting the villagers to undesirable living environment;*
- 2. ensure that villagers who were registered upon the completion of the freezing survey in 2014, including those who were evicted from the new development areas, will receive the same treatment as far as compensation is concerned; and*
- 3. adopt the date of land resumption as the basis for calculating the length of residence."*

The Administration's response to the motion is as follows:

Arrangements for residents affected by later phases of New Development Areas (NDAs)

2. As with previous new town developments, we will resume private land and clear government land by phases having regard to the needs of works. For such large-scale developments as NDAs, there can be a time gap of several years between the commencement of different phases. If the Government proceeded with land resumption and clearance before confirmation of the design of and implementation of a particular phase, its grounds for exercising statutory power on land resumption might be challenged and it might also be deemed as unreasonable by households who are unwilling to move out.

3. Nonetheless, since the Government's announcement of the proposed enhancements to the ex-gratia compensation and rehousing (C&R) arrangements on 10 May 2018, many households which will be affected by developments have expressed their wish to move out as soon as possible, so that

households who are only required to move out in later phases will not be affected by the advance works.

4. In this connection, the Development Bureau (DEVB) will take follow-up actions along the following two directions:

- (I) The Government will reduce the number of phases in the Remaining Works as far as practicable, so as to expedite land clearance. Taking the Kwu Tung North and Fanling North (KTN/FLN) NDAs as an example, we will consolidate the Remaining Phases into one single phase, and plan to seek funding from LegCo for undertaking detailed design for the Remaining Works in the first half of 2019 together with our funding application for construction of the Advance and First Stage Works. This can allow us to confirm in a timely manner the design of the Remaining Works and verify land resumption boundary, so that we can initiate follow-up work early. At the same time, we will perform a gate-keeping role so as to minimise the impact of government or private construction works on nearby residents and environment, and undertake appropriate measures to protect public safety.
- (II) The Government will work out a mechanism, allowing eligible households affected by clearances in the later phases of NDAs or other large-scale development projects to voluntarily apply for early surrender of and departure from their squatter structures and in turn early application for the ex-gratia C&R package. This arrangement takes into account the concerns expressed by households to be affected by later phases about their having to stay in the vicinity of works areas once the earlier phases of construction have commenced, and about the breaking up of a coherent community. Nonetheless, for practical considerations, whether and if yes how the applications would be entertained will be subject to capacity (e.g. whether rehousing units are available ahead of the original due date) and prioritisation of claims (e.g. those closer to the first phase should be given priority).

Arrangements for households registered in the freezing survey but requested to move out before the Government's actual clearance

5. For any public development projects involving land resumption and clearance, the Government will conduct a Pre-clearance Survey (also known as a freezing survey) to capture the status of structures and occupants which may be affected by the proposed development. Upon confirmation of the need for land clearance in due course, the information obtained in a freezing survey will be

used for assessing the eligibility for rehousing or compensation of the households affected by clearances. The basic purpose of a freezing survey is to support the Government to offer appropriate C&R arrangements in due course for genuinely affected households already captured in a freezing survey. If households registered in a freezing survey have, for whatever reasons, already moved out of the structures captured in the freezing survey before the Government's commencement of land clearance, it is difficult for the Government to automatically consider them as households affected by clearances.

6. That notwithstanding, for households registered in a freezing survey but subsequently evicted from surveyed/licensed structures by lot owners (or those who claimed to be owners) before Government's actual clearance, we will introduce a discretionary mechanism allowing them to apply to the Director of Lands for ex-gratia C&R arrangements on compassionate grounds. The concerned households still have to fulfil the same eligibility criteria for ex-gratia C&R arrangements applicable to other households residing in surveyed/licensed structures, and have to demonstrate to the satisfaction of the Director of Lands that their eviction was due to circumstances beyond their control and that they have not received other forms of compensation/rehousing as a result of the eviction.

Calculation of residence length in respect of the ex-gratia C&R arrangements

7. Adopting the date of land resumption as the basis for calculating the length of residence is equivalent to further relaxation of the eligibility criteria (i.e. to shorten the residence length requirement before the date of the freezing survey). We are concerned that it may encourage abusive behaviour.

8. For example, at present, the Government generally carries out public engagement exercises for large-scale development projects before the respective freezing surveys are conducted. If the period after the date of a freezing survey is also counted as the length of residence for the purpose of assessing ex-gratia C&R arrangements, it may create incentives for even more individuals to occupy relevant squatters and even drive out the original occupants upon the Government's announcement of the development projects, as well as for them to create excuses to delay clearances. Such behaviour will in fact affect the livelihood of grassroot occupants genuinely rooted in the community, and unintentionally encourage abusive behaviour.

9. Nevertheless, for the KTN/FLN NDAs, Hung Shui Kiu NDA, Wang Chau Phase 1 Development and other development projects for which the freezing surveys had already been completed before the announcement of the enhanced ex-gratia C&R package on 10 May 2018, we will exercise flexibility in assessing the continuous residence/occupation duration of clearerees (e.g. households and business undertakings) for determining their eligibility for ex-

gratia allowances and/or rehousing arrangements by counting not only the length of continuous residence/occupation immediately preceding the date of freezing survey but also that after the date of freezing survey but before 10 May 2018 (i.e. the announcement date of the proposed enhanced ex-gratia C&R package). This is an exceptional implementation arrangement confined to the above mentioned projects, on the ground that the detailed eligibility screening which should have commenced soon after the respective freezing surveys has been delayed for some time due to the review of the ex-gratia C&R package.

**Development Bureau
Lands Department
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